

# HOUSE JOURNAL

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EIGHTY-THIRD LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

EIGHTY-FIRST DAY — SATURDAY, MAY 25, 2013

The house met at 9:30 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 1272).

Present — Mr. Speaker; Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Callegari; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; White; Workman; Wu; Zedler; Zerwas.

Absent — Herrero; Walle.

The speaker recognized Trevor Rice of Austin who offered the invocation as follows:

A gentle man once said this—let us pray. And Father, remind us of the old adage: "The only difference between a sinner and a saint is that one's found forgiveness and the other one ain't." Amen.

The speaker recognized Representative Geren who led the house in the pledges of allegiance to the United States and Texas flags.

### **SB 401 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Geren, the house granted the request of the senate for the appointment of a Conference Committee on **SB 401**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 401**: Allen, chair; Deshotel, Patrick, Farney, and Miles.

**SB 460 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Geren, the house granted the request of the senate for the appointment of a Conference Committee on **SB 460**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 460**: Coleman, chair; Huberty, Aycock, J. Davis, and White.

**SB 949 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Geren, the house granted the request of the senate for the appointment of a Conference Committee on **SB 949**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 949**: J. Sheffield, chair; Lewis, S. Davis, Johnson, and Zerwas.

**SB 1373 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Geren, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1373**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1373**: R. Miller, chair; S. Thompson, Menéndez, Zedler, and Sheets.

**SB 1158 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Geren, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1158**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1158**: Menéndez, chair; Darby, Cortez, Otto, and Pickett.

**SB 1596 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Geren, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1596**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1596**: E. Rodriguez, chair; Howard, Workman, Otto, and Perez.

**SB 1747 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Geren, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1747**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1747**: Keffer, chair; Darby, Phillips, P. King, and Guillen.

**SB 1907 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Geren, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1907**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1907**: Kleinschmidt, chair; Springer, Raymond, Guillen, and R. Miller.

(S. Davis in the chair)

**HR 2759 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2759**, suspending the limitations on the conferees for **HB 1768**.

**HR 2762 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2762**, suspending the limitations on the conferees for **HB 1534**.

**HR 2795 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2795**, suspending the limitations on the conferees for **SB 281**.

**HR 2786 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2786**, suspending the limitations on the conferees for **SB 1458**.

**HOUSE AT EASE**

At 9:49 a.m., the chair announced that the house would stand at ease pending the arrival of guests.

**FALLEN HEROES MEMORIAL SERVICE  
(The House of Representatives and Senate in Joint Session)**

In accordance with the provisions of **HCR 209**, providing for a joint session of the senate and house of representatives for the purpose of a joint memorial session to honor Texans killed while serving in the Global War on Terrorism,

Governor Rick Perry, the Honorable David Dewhurst, president of the senate, and the honorable senators were announced at the door of the house and were admitted.

The Honorable David Dewhurst, president of the senate, called the senate to order at 10:10 a.m. and stated that a quorum of the senate was present.

The Honorable Joe Straus, speaker of the house, called the house to order at 10:10 a.m. and stated that a quorum of the house of representatives was present.

Speaker Straus stated that the two houses were in joint session pursuant to **HCR 209** in honor of Texans killed while serving in the Global War on Terrorism and welcomed Governor Perry, Lieutenant Governor Dewhurst, members of the senate, and other state officials, and addressed the assemblage.

Speaker Straus recognized Representative Menéndez who addressed the families of the honored fallen soldiers.

The joint session and assemblage rose for the posting of the colors.

Robin Farland sang the national anthem.

Senator Hinojosa led the assemblage in the pledge of allegiance to the United States flag and Representative R. Miller led the assemblage in the pledge of allegiance to the Texas flag.

Speaker Straus recognized Senator Lucio who offered the invocation.

Speaker Straus recognized Representative Menéndez and Senator Van de Putte to read **HCR 209**, convening a joint memorial session to honor Texans killed while serving in the Global War on Terrorism, commemorating Memorial Day 2013, and paying tribute to all those who have died in the service of the United States.

The service medley was played.

Governor Perry addressed the joint session and assemblage, as follows:

Thank you, Governor Dewhurst, for your words this morning, on the first day of a weekend dedicated to remembering those who gave their lives for their country. It's a privilege to gather with all of you in this historic chamber today. While we may have disagreements about policies and bills in the last days of the 83rd Legislative Session, there is absolutely no disagreement about the importance of honoring America's fallen heroes. Today, we honor America's fallen heroes. This event is a strong reminder of the simple fact that, as free Americans, we have an obligation larger than politics to honor those who have given the ultimate sacrifice in service to our country. We have a responsibility to those who have fallen in the War on Terror and in defense of our nation in conflicts across the decades.

Over the next few days, Americans will gather in town centers at civic memorials and in parks and schools across our country. They'll gather in recognition of those who have fallen in action. From our earliest days as a colony, seeking independence, through world-changing wars in Europe and the Pacific and in smaller, but still horrific, conflicts in Southeast Asia and the

Middle East. Far too many of us will speak from a position of personal loss. On every level, war touches communities, large and small. States send large numbers of their sons and daughters to places halfway around the world. Towns carve onto monuments the names of those who never returned home, and families deal with the space left in their lives once filled by loved ones—empty chairs at holiday dinners, weddings, and graduations. For them, the effects of losing a hero are felt every day for entire lifetimes.

As we remember those who gave all in defense of their country, let's not forget those they left behind at home. They, too, have lost: sons and daughters, husbands and wives, fathers and mothers. While the pain of such a loss does endure, so does pride and pride in what their loved ones stood for. They stood for things like dedication and freedom, liberty and love, both for their country and for those they fought alongside. That was what inspired them to risk everything in the first place as they rushed across the beaches at Normandy, skirmished in the skies over MiG Alley and moved from house to house in the streets of Fallujah.

The writer Joseph Campbell once defined a hero as "someone who has given his or her life to something bigger than oneself." It's hard to argue against that description, which certainly fits those who die fighting for the nation they loved so dearly. Though they were defined by their sacrifice, we should also remember them as individuals, often painfully young, and all with great potential for success. More than just great patriots and fighters, they were talented artists, teachers, engineers, doctors, and leaders. More than just brave, they were smart, caring, inventive, and sometimes funny. More than names, more than numbers, they were people we all knew. They were people who gave their all in dedication to the principles that continue to make this the greatest country in the world.

A sacrifice of that magnitude demands that we respect it. A sacrifice of that magnitude demands that we remember them. But what does it mean to remember them, exactly? I believe it means a lot more than cookouts, speeches, and swimming. Those things are fine. We are meant to enjoy the freedoms these brave individuals fought and died for, but it also means living our lives in a fashion that honors their sacrifice. It means serving your community, helping those in need, and making sure your voice is heard in important discussions. It means working to make our nation, and this world, a better place than we found it, and it means caring for the families of those who have recently lost a service member and doing everything we can to support our wounded warriors returning home.

Sadly, our mission in the current Global War on Terror is not over. The same principles that have made our nation great have continued to make us a target for those who hate and who use fear and death to spread their own twisted view of the world. As we've seen in faraway places like London and Afghanistan, and in places closer to home like Boston and Fort Hood, the forces of terror continue to try to intimidate and kill Americans, our allies, and anyone who loves freedom. As long as evil continues to target the innocent, our soldiers, sailors, airmen, and marines will continue to hunt them down. Today, and throughout this weekend, let's pray for those still in harms way. Let's pray for the healing of the injured and the comfort of those left behind by a fallen hero. Let's never forget the debt we

owe all of those who served, not just on Memorial Day, but every day of the year. May God bless you and, through you, may he continue to bless the great State of Texas.

Governor Perry presented flags flown over the Capitol to family members as Representatives R. Sheffield and Farias and Senators Birdwell and Davis read the names of the following fallen soldiers:

Staff Sergeant Omar L. Aceves, Army; Staff Sergeant Estevan Altamirano, Army; Major Nathan W. Anderson, Marine Corps; Private First Class Genaro Bedoy, Army; Staff Sergeant Nicholas P. Bellard, Army; Sergeant Robert John Billings, Army; Sergeant Scott H. Burgess, Army; Sergeant John Paul Castro, Army; Sergeant Zainah C. Creamer, Army; Private First Class David A. Drake, Army; Lance Corporal Mark R. Goyet, Marine Corps; Sergeant John E. Hansen, Army; Sergeant Tanner S. Higgins, Army; Private First Class Josue Ibarra, Marine Corps; Private First Class Andrew M. Krippner, Army; Private First Class Ira B. Lanningham, Army; Staff Sergeant Roberto Loeza, Army; Staff Sergeant Chauncy R. Mays, Army; Staff Sergeant Mecolus C. McDaniel, Army; Staff Sergeant Kashif M. Memon, Army; Chief Petty Officer (SEAL) Stephen M. "Matt" Mills, Navy; Sergeant Jacob Molina, Army; Chief Warrant Officer Two Jose L. Montenegro, Jr., Army; Captain Nathan J. Nylander, Air Force; Airman First Class Corey C. Owens; Master Sergeant Charles L. Price, Army; Specialist Joel A. Ramirez, Army; Chief Warrant Officer Two Thalia S. Ramirez, Army; 2nd Lieutenant Clovis T. Ray, Army; Specialist Michael C. Roberts, Army; Sergeant Rodolfo Rodriguez, Jr., Army; Specialist Philip C. S. Schiller, Army; Lance Corporal Benjamin W. Schmidt, Marine Corps; Specialist Riley S. Spalding, Army; Sergeant 1st Class Riley S. Stephens, Army; Master Sergeant Benjamin A. Stevenson, Army; Sergeant Steven L. Talamantez, Army; Staff Sergeant Houston M. Taylor, Army; Staff Sergeant Nelson Trent, Army; 1st Lieutenant Dustin D. Vincent, Army; 1st Lieutenant Andres Zermeno, Army; Sergeant Lorenzo Aranda, Jr., Marine Corps; Petty Officer Second Class Clayton R. Beauchamp, Navy; 1st Sergeant Russell R. Bell, Army; Staff Sergeant Jeremie S. Border, Army; Lieutenant Colonel David E. Cabrera, Army; Sergeant James M. Darrough, Army; Sergeant James Jesse De La Cruz; Specialist Jesse W. Dietrich, Army; Lance Corporal John F. Farias, Marine Corps; Specialist Krystal M. Fitts, Army; Chief Warrant Officer Bradley J. Gaudet, Army; Specialist Alex Hernandez III, Army; Sergeant Adam Huckstep-LaPorte, Army; Specialist Payton A. Jones, Army; Specialist Kurt W. Kern, Army; Corporal Joseph D. Logan, Marine Corps; Petty Officer Brian K. Lundy, Navy; Sergeant Joshua Michael, Army; Sergeant Enrique Mondragon, Army; Corporal Juan P. Navarro, Army; Private First Class Cody R. Norris, Army; Private First Class Anthony M. Nunn, Army; Staff Sergeant Michael Paul Perez; Sergeant Joshua D. Powell, Army; Corporal Michael Arthur Preuss, Marine Corps;

Sergeant Paul A. Rivera, Army; Sergeant Glenn M. Sewell, Army; Staff Sergeant Jeremy D. Smith, Marine Corps; Specialist Omar Soltero, Army; Petty Officer Jorge Luis Velasquez, Navy; Captain Mark Tyler Voss, Air Force; Sergeant Wade D. Wilson, Marine Corps; Specialist Charles J. Wren, Army.

The joint session and assemblage observed a moment of silence.

Stephanie Urbina Jones sang "Amazing Grace."

A cannon salute was offered by the Texas Army National Guard Salute Battery.

"Taps" was played by Kevin Lawson.

Chaplain Captain Eric Gerber offered the benediction.

Lieutenant Governor Dewhurst and Speaker Straus thanked the attendees of today's service.

### **SENATE ADJOURNMENT**

At 11:37 a.m., Lieutenant Governor Dewhurst stated that the purpose for which the joint session was called had been completed and that the senate would, in accordance with a previous motion, stand adjourned until 2 p.m. today.

### **HOUSE AT EASE**

At 11:38 a.m., the speaker announced that the house would stand at ease pending the departure of guests.

(Geren in the chair)

The chair called the house to order at 11:41 a.m.

### **RECESS**

At 11:41 a.m., the chair announced that the house would stand recessed until 2 p.m. today.

### **AFTERNOON SESSION**

The house met at 2 p.m. and was called to order by the speaker.

The speaker recognized Representative Guillen who introduced Juan Francisco Gonzales, deacon, Our Lady of Guadalupe Catholic Church, Raymondville, who offered the invocation as follows:

Heavenly Father, we pray that your grace streams forth to all here present. Everliving God, as your grace touches us, let your goodness create a loving heart that will guide us to do what is good and fitting. We also ask that you give us the wisdom to govern amid the interests and issues of the day. Everliving God, we pray this day that you give us the sense of the welfare of the people we guide and a keen thirst for justice and rightness.

Lord, today and every day we thank you for the opportunity to serve as representatives of the people and for the people. We also ask that you give us the ability to work together in harmony, even when there is honest disagreement.

Heavenly Father, as we look at the agenda today, give us the assurance of what will please you and benefit those who live and work in our beloved State of Texas. In your blessed name, we pray. Amen.

### **LEAVES OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of family business:

Sheets on motion of Taylor.

The following member was granted leave of absence for the remainder of today because of important business:

Callegari on motion of Zerwas.

### **BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 43 and Senate List Nos. 33 and 39).

(Paddie in the chair)

(Walle now present)

### **HR 2626 - ADOPTED**

**(by McClendon, Strama, Straus, Kolkhorst, Orr, and Dukes)**

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 2626**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2626**, Commending the 2013 Class of UTSA Legislative Scholars.

**HR 2626** was read and was adopted.

On motion of Representative Dukes, the names of all the members of the house were added to **HR 2626** as signers thereof.

### **INTRODUCTION OF GUESTS**

The speaker recognized Representative McClendon who introduced members of the 2013 Class of UTSA Legislative Scholars.

### **HR 2793 - ADOPTED**

**(by Dukes)**

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 2793**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2793**, Commending Eliana Briceno for her service as a McClendon Scholar in the office of State Representative Dawnna Dukes.

**HR 2793** was adopted.



**HR 2759 - ADOPTED**  
**(by Canales)**

The following privileged resolution was laid before the house:

**HR 2759**

BE IT RESOLVED by the House of Representatives of the State of Texas, 83rd Legislature, Regular Session, 2013, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 1768** (identification requirements for certain fire hydrants and flush valves) to consider and take action on the following matter:

(1) House Rule 13, Sections 9(a)(1) and (2), are suspended to permit the committee to change and omit text not in disagreement in proposed SECTION 1 of the bill, in amended Section 341.0357, Health and Safety Code, to read as follows:

SECTION 1. Section 341.0357, Health and Safety Code, is amended to read as follows:

Sec. 341.0357. IDENTIFICATION REQUIREMENT FOR CERTAIN ~~[DEVICE WITH APPEARANCE OF]~~ FIRE HYDRANTS AND FLUSH VALVES ~~[HYDRANT THAT IS NONFUNCTIONING OR UNAVAILABLE FOR USE IN FIRE EMERGENCY]~~. (a) In this section, "hydrant" means:

(1) a fire hydrant; or

(2) a metal flush valve that:

(A) has ~~[The owner of any device having]~~ the appearance of a fire hydrant; and

(B) ~~[that]~~ is located in a place that an entity responsible for providing fire suppression services in a fire emergency would expect a fire hydrant to typically be located.

(b) This section applies only to a county, or a municipality in a county, that:

(1) borders the United Mexican States or is adjacent to a county that borders the United Mexican States;

(2) has a population of at least 400,000 or has a population of at least 20,000 and is adjacent to a county that has a population of at least 400,000; and

(3) is within 200 miles of the Gulf of Mexico.

(c) Each water utility responsible for any hydrant shall:

(1) paint all or the cap of the hydrant white if the hydrant is available to be used only to fill a water tank on a fire truck used for fire suppression services; and

(2) paint all or the cap of the hydrant ~~[device]~~ black if the hydrant ~~[device]~~ is ~~[nonfunctioning or otherwise]~~ unavailable for use by the entity providing fire suppression services in a fire emergency.

(d) For purposes of Subsection (c)(2), a hydrant is unavailable for use in a fire emergency if it is unavailable for pumping directly from the hydrant or is unavailable for use in filling a water tank on a fire truck used for fire suppression services.

(e) A water utility ~~[The owner]~~ may place a black tarp over the hydrant or use another means to conceal the hydrant ~~[device]~~ instead of painting all or the cap of the hydrant ~~[device]~~ black as required under Subsection (c)(2) ~~[this section]~~ if the hydrant ~~[device]~~ is temporarily ~~[nonfunctioning, or temporarily]~~ unavailable for use in a fire emergency~~;~~ for a period not to exceed 45 ~~[seven]~~ days. Not later than the 45th day after the date a hydrant is concealed as provided by this subsection, the water utility responsible for the hydrant shall:

(1) if the hydrant is available for the provision of fire suppression services, remove the tarp or other means of concealment; or

(2) if the hydrant continues to be unavailable for use in a fire emergency, paint all or the cap of the hydrant black as required by Subsection (c)(2).

(f) A water utility that paints all or the cap of a hydrant black as required by Subsection (c)(2) may also ensure by any reasonable means that the hydrant is identifiable in low-light conditions, including by installing reflectors.

(g) ~~[(b)]~~ For purposes of this section, a hydrant ~~[device]~~ is considered to be unavailable for use by an entity responsible for providing fire suppression services in a fire emergency if the water utility is not obligated by ordinance, regulation, or contract to provide water for fire suppression services and elects not to provide water for those services ~~[nonfunctioning if the device pumps less than 250 gallons of water per minute]~~.

(h) ~~[(e)]~~ This section does not apply:

(1) within the jurisdiction of a governmental entity that maintains its own system for labeling or color coding its hydrants; or

(2) to any water utility that has entered into a contract with a municipality or volunteer fire department to provide a water supply for fire suppression services if the contract specifies a different system for labeling or color coding hydrants ~~[a device having the appearance of a fire hydrant that is nonfunctioning or otherwise unavailable for use in a fire emergency]~~.

(i) For purposes of Subsection (h), a system for labeling or color coding hydrants may include the assignment of different colors to identify hydrants that are available for direct pumping, hydrants that are available for filling a water tank on a fire truck used for fire suppression services, and hydrants that are unavailable for use by an entity providing fire suppression services in a fire emergency.

(j) The fact that all or the cap of a hydrant for which a water utility is responsible under this section is not painted black as described by Subsection (c)(2) or concealed in the manner described by Subsection (e) does not constitute a guarantee by the water utility that the hydrant will deliver a certain amount of water flow at all times. Notwithstanding any provision of Chapter 101, Civil Practice and Remedies Code, to the contrary, a water utility is not liable for a hydrant's inability to provide adequate water supply in a fire emergency.

Explanation: The change is necessary to omit the section amending Section 341.0357, Health and Safety Code, to preserve the application of that law to certain municipalities.

(2) House Rule 13, Section 9(a)(3), is suspended to permit the committee to add text on a matter not in disagreement by adding the following new SECTIONS to the bill:

SECTION 1. Section 341.0357, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) This section does not apply within the jurisdiction of a governmental entity described by Section 341.03571(b).

SECTION 2. Subchapter C, Chapter 341, Health and Safety Code, is amended by adding Section 341.03571 to read as follows:

Sec. 341.03571. IDENTIFICATION REQUIREMENT FOR CERTAIN FIRE HYDRANTS AND FLUSH VALVES IN CERTAIN MUNICIPALITIES.

(a) In this section, "hydrant" means:

(1) a fire hydrant; or

(2) a metal flush valve that:

(A) has the appearance of a fire hydrant; and

(B) is located in a place that an entity responsible for providing fire suppression services in a fire emergency would expect a fire hydrant to typically be located.

(b) This section applies only to a county, or a municipality in a county, that:

(1) borders the United Mexican States or is adjacent to a county that borders the United Mexican States;

(2) has a population of at least 400,000 or has a population of at least 20,000 and is adjacent to a county that has a population of at least 400,000; and

(3) is within 200 miles of the Gulf of Mexico.

(c) Each public water system responsible for any hydrant shall:

(1) paint all or the cap of the hydrant white if the hydrant is available to be used only to fill a water tank on a fire truck used for fire suppression services; and

(2) paint all or the cap of the hydrant black if the hydrant is unavailable for use by the entity providing fire suppression services in a fire emergency.

(d) For purposes of Subsection (c)(2), a hydrant is unavailable for use in a fire emergency if it is unavailable for pumping directly from the hydrant or is unavailable for use in filling a water tank on a fire truck used for fire suppression services.

(e) A public water system may place a black tarp over the hydrant or use another means to conceal the hydrant instead of painting all or the cap of the hydrant black as required under Subsection (c)(2) if the hydrant is temporarily unavailable for use in a fire emergency for a period not to exceed 45 days. Not later than the 45th day after the date a hydrant is concealed as provided by this subsection, the public water system responsible for the hydrant shall:

(1) if the hydrant is available for the provision of fire suppression services, remove the tarp or other means of concealment; or

(2) if the hydrant continues to be unavailable for use in a fire emergency, paint all or the cap of the hydrant black as required by Subsection (c)(2).

(f) A public water system that paints all or the cap of a hydrant black as required by Subsection (c)(2) may also ensure by any reasonable means that the hydrant is identifiable in low-light conditions, including by installing reflectors.

(g) This section does not apply:

(1) within the jurisdiction of a governmental entity that maintains its own system for labeling or color coding its hydrants; or

(2) to any public water system that has entered into a contract with a municipality or volunteer fire department to provide a water supply for fire suppression services if the contract specifies a different system for labeling or color coding hydrants.

(h) For purposes of Subsection (g), a system for labeling or color coding hydrants may include the assignment of different colors to identify hydrants that are available for direct pumping, hydrants that are available for filling a water tank on a fire truck used for fire suppression services, and hydrants that are unavailable for use by an entity providing fire suppression services in a fire emergency.

(i) The fact that all or the cap of a hydrant for which a public water system is responsible under this section is not painted black as described by Subsection (c)(2) or concealed in the manner described by Subsection (e) does not constitute a guarantee by the public water system that the hydrant will deliver a certain amount of water flow at all times. Notwithstanding any provision of Chapter 101, Civil Practice and Remedies Code, to the contrary, a public water system is not liable for a hydrant's inability to provide adequate water supply in a fire emergency.

Explanation: This addition is necessary to preserve the application of current law to certain municipalities and to enact new law applicable to other municipalities.

(3) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed SECTION 2 of the bill, in the transition language, to read as follows:

SECTION 3. Not later than January 1, 2014, each public water system responsible for hydrants under Section 341.03571, Health and Safety Code, as added by this Act, shall ensure that its hydrants comply with the requirements imposed by that section.

Explanation: This change is necessary to update the cross-reference to reflect the addition of Section 341.03571, Health and Safety Code.

**HR 2759** was adopted by (Record 1273): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal;

Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Parker; Patrick; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Paddie(C).

Absent, Excused — Callegari; Sheets.

Absent — Aycock; Herrero; Sheffield, J.; Stephenson.

### **HB 1768 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Canales submitted the following conference committee report on **HB 1768**:

Austin, Texas, May 24, 2013

The Honorable David Dewhurst  
President of the Senate

The Honorable Joe Straus  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1768** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hinojosa  
Deuell  
Seliger  
Uresti  
Whitmire

Canales  
Nevárez  
Lucio  
J. Rodriguez

On the part of the senate

On the part of the house

**HB 1768**, A bill to be entitled An Act relating to identification requirements for certain fire hydrants and flush valves.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 341.0357, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) This section does not apply within the jurisdiction of a governmental entity described by Section 341.03571(b).

SECTION 2. Subchapter C, Chapter 341, Health and Safety Code, is amended by adding Section 341.03571 to read as follows:

Sec. 341.03571. IDENTIFICATION REQUIREMENT FOR CERTAIN FIRE HYDRANTS AND FLUSH VALVES IN CERTAIN MUNICIPALITIES.

(a) In this section, "hydrant" means:

(1) a fire hydrant; or  
(2) a metal flush valve that:  
(A) has the appearance of a fire hydrant; and  
(B) is located in a place that an entity responsible for providing fire suppression services in a fire emergency would expect a fire hydrant to typically be located.

(b) This section applies only to a county, or a municipality in a county, that:  
(1) borders the United Mexican States or is adjacent to a county that borders the United Mexican States;

(2) has a population of at least 400,000 or has a population of at least 20,000 and is adjacent to a county that has a population of at least 400,000; and

(3) is within 200 miles of the Gulf of Mexico.

(c) Each public water system responsible for any hydrant shall:

(1) paint all or the cap of the hydrant white if the hydrant is available to be used only to fill a water tank on a fire truck used for fire suppression services; and

(2) paint all or the cap of the hydrant black if the hydrant is unavailable for use by the entity providing fire suppression services in a fire emergency.

(d) For purposes of Subsection (c)(2), a hydrant is unavailable for use in a fire emergency if it is unavailable for pumping directly from the hydrant or is unavailable for use in filling a water tank on a fire truck used for fire suppression services.

(e) A public water system may place a black tarp over the hydrant or use another means to conceal the hydrant instead of painting all or the cap of the hydrant black as required under Subsection (c)(2) if the hydrant is temporarily unavailable for use in a fire emergency for a period not to exceed 45 days. Not later than the 45th day after the date a hydrant is concealed as provided by this subsection, the public water system responsible for the hydrant shall:

(1) if the hydrant is available for the provision of fire suppression services, remove the tarp or other means of concealment; or

(2) if the hydrant continues to be unavailable for use in a fire emergency, paint all or the cap of the hydrant black as required by Subsection (c)(2).

(f) A public water system that paints all or the cap of a hydrant black as required by Subsection (c)(2) may also ensure by any reasonable means that the hydrant is identifiable in low-light conditions, including by installing reflectors.

(g) This section does not apply:

(1) within the jurisdiction of a governmental entity that maintains its own system for labeling or color coding its hydrants; or

(2) to any public water system that has entered into a contract with a municipality or volunteer fire department to provide a water supply for fire suppression services if the contract specifies a different system for labeling or color coding hydrants.

(h) For purposes of Subsection (g), a system for labeling or color coding hydrants may include the assignment of different colors to identify hydrants that are available for direct pumping, hydrants that are available for filling a water

tank on a fire truck used for fire suppression services, and hydrants that are unavailable for use by an entity providing fire suppression services in a fire emergency.

(i) The fact that all or the cap of a hydrant for which a public water system is responsible under this section is not painted black as described by Subsection (c)(2) or concealed in the manner described by Subsection (e) does not constitute a guarantee by the public water system that the hydrant will deliver a certain amount of water flow at all times. Notwithstanding any provision of Chapter 101, Civil Practice and Remedies Code, to the contrary, a public water system is not liable for a hydrant's inability to provide adequate water supply in a fire emergency.

SECTION 3. Not later than January 1, 2014, each public water system responsible for hydrants under Section 341.03571, Health and Safety Code, as added by this Act, shall ensure that its hydrants comply with the requirements imposed by that section.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Representative Canales moved to adopt the conference committee report on **HB 1768**.

The motion to adopt the conference committee report on **HB 1768** prevailed by (Record 1274): 142 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Leach; Lewis; Longoria; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Parker; Patrick; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Nays — Lavender.

Present, not voting — Mr. Speaker; Paddie(C).

Absent, Excused — Callegari; Sheets.

Absent — Herrero; Lozano; Stephenson.

### STATEMENTS OF VOTE

When Record No. 1274 was taken, I was in the house but away from my desk. I would have voted yes.

Lozano

When Record No. 1274 was taken, I was in the house but away from my desk. I would have voted yes.

Stephenson

### HR 2762 - ADOPTED (by Leach)

The following privileged resolution was laid before the house:

#### HR 2762

BE IT RESOLVED by the House of Representatives of the State of Texas, 83rd Legislature, Regular Session, 2013, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 1534** (the designation of certain segments of highway in Collin County and Jim Wells County) to consider and take action on the following matter:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill by adding the following text to SECTION 1 of the bill:

Sec. 225.092. LT. GENERAL MARC CISNEROS HIGHWAY. (a) Notwithstanding Section 225.001(c), the portion of U.S. Highway 281 in Jim Wells County between its intersection with Farm-to-Market Road 716 and its intersection with County Road 422 is designated as the Lt. General Marc Cisneros Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Lt. General Marc Cisneros Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Explanation: This addition is necessary to designate a portion of U.S. Highway 281 in Jim Wells County as the Lt. General Marc Cisneros Highway.

**HR 2762** was adopted by (Record 1275): 139 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause;



Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Parker; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, J.; Rose; Sanford; Schaefer; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Nays — Stickland.

Present, not voting — Mr. Speaker; Paddie(C).

Absent, Excused — Callegari; Sheets.

Absent — Cortez; Herrero; Lozano; Patrick; Rodriguez, E.; Sheffield, J.

### STATEMENTS OF VOTE

When Record No. 1275 was taken, I was in the house but away from my desk. I would have voted yes.

Cortez

When Record No. 1275 was taken, I was in the house but away from my desk. I would have voted yes.

Lozano

I was shown voting no on Record No. 1275. I intended to vote yes.

Stickland

### HB 1534 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Leach submitted the following conference committee report on **HB 1534**:

Austin, Texas, May 23, 2013

The Honorable David Dewhurst  
President of the Senate

The Honorable Joe Straus  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1534** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Paxton  
Deuell  
Estes  
Hancock  
Nelson

Leach  
Sanford  
Taylor

On the part of the senate

On the part of the house

**HB 1534**, A bill to be entitled An Act relating to the designation of certain segments of highway in Collin County and Jim Wells County.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 225, Transportation Code, is amended by adding Sections 225.091 and 225.092 to read as follows:

Sec. 225.091. SAM JOHNSON HIGHWAY. (a) Notwithstanding Section 225.001(c), the portion of U.S. Highway 75 in Collin County between its intersection with the President George Bush Highway and its intersection with U.S. Highway 380 is designated as the Sam Johnson Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Sam Johnson Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Sec. 225.092. LT. GENERAL MARC CISNEROS HIGHWAY. (a) Notwithstanding Section 225.001(c), the portion of U.S. Highway 281 in Jim Wells County between its intersection with Farm-to-Market Road 716 and its intersection with County Road 422 is designated as the Lt. General Marc Cisneros Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Lt. General Marc Cisneros Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

SECTION 2. This Act takes effect September 1, 2013.

Representative Leach moved to adopt the conference committee report on **HB 1534**.

The motion to adopt the conference committee report on **HB 1534** prevailed by (Record 1276): 142 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Howard; Huberty; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Parker; Patrick; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheffield, R.; Simmons; Simpson; Smith; Smithee;

Springer; Stephenson; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Nays — Stickland.

Present, not voting — Mr. Speaker; Paddie(C).

Absent, Excused — Callegari; Sheets.

Absent — Herrero; Hughes; Sheffield, J.

### STATEMENTS OF VOTE

When Record No. 1276 was taken, my vote failed to register. I would have voted yes.

Hughes

I was shown voting no on Record No. 1276. I intended to vote yes.

Stickland

(Pickett in the chair)

### SB 901 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Paddie submitted the conference committee report on **SB 901**.

Representative Paddie moved to adopt the conference committee report on **SB 901**.

The motion to adopt the conference committee report on **SB 901** prevailed by (Record 1277): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Pickett(C).

Absent, Excused — Callegari; Sheets.

Absent — Herrero; Lozano; Murphy; Toth.

### STATEMENT OF VOTE

When Record No. 1277 was taken, I was in the house but away from my desk. I would have voted yes.

Lozano

### SB 1106 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative J. Davis submitted the conference committee report on **SB 1106**.

Representative J. Davis moved to adopt the conference committee report on **SB 1106**.

The motion to adopt the conference committee report on **SB 1106** prevailed by (Record 1278): 141 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Nays — Anderson; Stickland.

Present, not voting — Mr. Speaker; Pickett(C).

Absent, Excused — Callegari; Sheets.

Absent — Farrar; Herrero; Lozano.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 1278. I intended to vote yes.

Anderson

When Record No. 1278 was taken, I was in the house but away from my desk. I would have voted yes.

Lozano

### **SB 396 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Martinez Fischer submitted the conference committee report on **SB 396**.

Representative Martinez Fischer moved to adopt the conference committee report on **SB 396**.

The motion to adopt the conference committee report on **SB 396** prevailed by (Record 1279): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Pickett(C).

Absent, Excused — Callegari; Sheets.

Absent — Farney; Herrero.

### **HB 396 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative S. Thompson submitted the following conference committee report on **HB 396**:

Austin, Texas, May 22, 2013

The Honorable David Dewhurst  
President of the Senate

The Honorable Joe Straus  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 396** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Huffman

Fraser

Patrick

Uresti

Van de Putte

On the part of the senate

S. Thompson

Burnam

S. Davis

Howard

R. Miller

On the part of the house

**HB 396**, A bill to be entitled An Act relating to providing a federal postcard applicant with a ballot for certain elections in which the applicant is eligible to vote.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 101.054, Election Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) A person may apply with a single federal postcard application for a ballot for any one or more elections in which the person is eligible to vote as provided by this section [~~the early voting clerk to whom the application is submitted conducts early voting~~].

(b) An application that does not identify the election for which a ballot is requested shall be treated as if it requests a ballot for:

(1) except as provided by Subdivision (3), each general election in which the clerk conducts early voting; [and]

(2) the general primary election if the application indicates party preference and is submitted to the early voting clerk for the primary; and

(3) each general or special election held by a county, a municipality, or an independent school district in the calendar year in which the application is received and in which the person is eligible to vote.

(b-1) If an application under Subsection (b) indicates the person is eligible to vote in an election described by Subsection (b)(3) in which the early voting clerk who received the application does not conduct early voting, the clerk shall forward a copy of the application in a form prescribed by the secretary of state to each early voting clerk who conducts early voting for that election.

SECTION 2. This Act takes effect September 1, 2013.

Representative S. Thompson moved to adopt the conference committee report on **HB 396**.

The motion to adopt the conference committee report on **HB 396** prevailed by (Record 1280): 139 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden;

Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheffield, J.; Sheffield, R.; Simmons; Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; Workman; Wu; Zerwas.

Nays — Flynn; Klick; Simpson; Zedler.

Present, not voting — Mr. Speaker; Pickett(C).

Absent, Excused — Callegari; Sheets.

Absent — Dukes; Herrero; White.

#### STATEMENT OF VOTE

I was shown voting yes on Record No. 1280. I intended to vote no.

Stickland

#### SB 270 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Canales submitted the conference committee report on **SB 270**.

Representative Canales moved to adopt the conference committee report on **SB 270**.

The motion to adopt the conference committee report on **SB 270** prevailed by (Record 1281): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith;

Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Pickett(C).

Absent, Excused — Callegari; Sheets.

Absent — Herrero; King, S.

### STATEMENT OF VOTE

When Record No. 1281 was taken, I was temporarily out of the house chamber. I would have voted yes.

Herrero

### SB 578 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative J. Sheffield submitted the conference committee report on **SB 578**.

Representative J. Sheffield moved to adopt the conference committee report on **SB 578**.

The motion to adopt the conference committee report on **SB 578** prevailed by (Record 1282): 141 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Stephenson; Strama; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Nays — Springer; Stickland.

Present, not voting — Mr. Speaker; Pickett(C).

Absent, Excused — Callegari; Sheets.

Absent — Farias; Herrero; Taylor.



**STATEMENT OF VOTE**

I was shown voting no on Record No. 1282. I intended to vote yes.

Stickland

(Herrero now present)

**HR 2795 - ADOPTED  
(by Frank)**

The following privileged resolution was laid before the house:

**HR 2795**

BE IT RESOLVED by the House of Representatives of the State of Texas, 83rd Legislature, Regular Session, 2013, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 281** (administration and powers of the Red River Authority of Texas) to consider and take action on the following matter:

House Rule 13, Section 9(a)(3), is suspended to permit the committee to add text on a matter which is not in disagreement by adding text in SECTION 3 of the bill, in added Section 19a, Chapter 279, Acts of the 56th Legislature, Regular Session, 1959, to read as follows:

Sec. 19a. The Authority may purchase groundwater rights in a county in the Authority's territory only if:

(1) there is a groundwater conservation district that has jurisdiction over water wells located in the county; or

(2) in the case where a county is not in the jurisdiction of a groundwater conservation district, the commissioners court of the county approves the purchase of groundwater rights by the Authority in the county.

Explanation: This change is necessary to clarify under what conditions the Red River Authority of Texas may purchase groundwater rights.

**HR 2795** was adopted by (Record 1283): 134 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burnam; Button; Canales; Carter; Clardy; Coleman; Collier; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Farias; Farney; Farrar; Fletcher; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Phillips; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, J.; Rose; Sanford; Schaefer; Sheffield, J.; Sheffield, R.; Simmons;

Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zerwas.

Nays — Capriglione; Fallon; Flynn; Hilderbran; Perry; Simpson; Zedler.

Present, not voting — Mr. Speaker; Pickett(C).

Absent, Excused — Callegari; Sheets.

Absent — Burkett; Cortez; Herrero; Miles; Rodriguez, E.

#### STATEMENTS OF VOTE

When Record No. 1283 was taken, I was in the house but away from my desk. I would have voted yes.

Cortez

I was shown voting yes on Record No. 1283. I intended to vote no.

Stickland

#### **SB 281 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Frank submitted the conference committee report on **SB 281**.

Representative Frank moved to adopt the conference committee report on **SB 281**.

The motion to adopt the conference committee report on **SB 281** prevailed by (Record 1284): 139 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Herrero; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Phillips; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, J.; Rose; Sanford; Schaefer; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Nays — Perry.

Present, not voting — Mr. Speaker; Pickett(C).

Absent, Excused — Callegari; Sheets.

Absent — Cortez; Davis, S.; Lavender; Perez; Rodriguez, E.; Sheffield, J.

**STATEMENTS OF VOTE**

When Record No. 1284 was taken, my vote failed to register. I would have voted yes.

Cortez

When Record No. 1284 was taken, I was in the house but away from my desk. I would have voted yes.

S. Davis

When Record No. 1284 was taken, I was in the house but away from my desk. I would have voted yes.

Lavender

**HB 3572 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Hilderbran submitted the following conference committee report on **HB 3572**:

Austin, Texas, May 24, 2013

The Honorable David Dewhurst  
President of the Senate

The Honorable Joe Straus  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3572** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Williams

Hinojosa

Hegar

Lucio

Huffman

On the part of the senate

Hilderbran

Bohac

Eiland

Kuempel

R. Sheffield

On the part of the house

**HB 3572**, A bill to be entitled An Act relating to the administration, collection, and enforcement of taxes on mixed beverages; imposing a tax on sales of mixed beverages; decreasing the rate of the current tax on mixed beverages.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 151.308(a), Tax Code, is amended to read as follows:

(a) The following are exempted from the taxes imposed by this chapter:

(1) oil as taxed by Chapter 202;

(2) sulphur as taxed by Chapter 203;

(3) motor fuels and special fuels as defined, taxed, or exempted by Chapter 162;

(4) cement as taxed by Chapter 181;

(5) motor vehicles, trailers, and semitrailers as defined, taxed, or exempted by Chapter 152, other than a mobile office or an oilfield portable unit, as those terms are defined by Section 152.001;

(6) mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the receipts are taxable by Subchapter B, Chapter 183, or the items are taxable by Subchapter B-1, Chapter 183;

(7) alcoholic beverages when sold to the holder of a private club registration permit or to the agent or employee of the holder of a private club registration permit if the holder or agent or employee is acting as the agent of the members of the club and if the beverages are to be served on the premises of the club;

(8) oil well service as taxed by Subchapter E, Chapter 191; and

(9) insurance premiums subject to gross premiums taxes.

SECTION 2. The heading to Subtitle G, Title 2, Tax Code, is amended to read as follows:

SUBTITLE G. GROSS RECEIPTS AND MIXED BEVERAGE TAXES

SECTION 3. The heading to Chapter 183, Tax Code, is amended to read as follows:

CHAPTER 183. MIXED BEVERAGE TAXES ~~[TAX]~~

SECTION 4. Section 183.001(b), Tax Code, is amended by adding Subdivision (3) to read as follows:

(3) "Sales price" has the meaning assigned by Section 151.007, as applicable.

SECTION 5. The heading to Subchapter B, Chapter 183, Tax Code, is amended to read as follows:

SUBCHAPTER B. MIXED BEVERAGE GROSS RECEIPTS TAX

SECTION 6. Section 183.021, Tax Code, is amended to read as follows:

Sec. 183.021. TAX IMPOSED ON GROSS RECEIPTS OF PERMITTEE FROM MIXED BEVERAGES. A tax at the rate of 6.7 ~~[14]~~ percent is imposed on the gross receipts of a permittee received from the sale, preparation, or service of mixed beverages or from the sale, preparation, or service of ice or nonalcoholic beverages that are sold, prepared, or served for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the permittee.

SECTION 7. Sections 183.0212(a) and (b), Tax Code, are amended to read as follows:

(a) For informational purposes only, a permittee may provide that each sales invoice, billing, service check, ticket, or other receipt to a customer for the purchase of an item subject to taxation under this subchapter ~~[chapter]~~ include:

(1) a separate statement disclosing the amount of tax to be paid by the permittee under this subchapter ~~[chapter]~~ in relation to that item; or

(2) a statement of the mixed beverage taxes, consisting of the combined amount of the tax to be paid by the permittee under this subchapter in relation to that item and the amount of tax imposed under Subchapter B-1 on that item.

(b) A ~~[The separate]~~ statement under Subsection (a)(1) must clearly disclose the amount of tax payable by the permittee.

SECTION 8. Sections 183.024(a) and (d), Tax Code, are amended to read as follows:

(a) A permittee who fails to file a report as required by this subchapter ~~[chapter]~~ or who fails to pay a tax imposed by this subchapter ~~[chapter]~~ when due shall pay five percent of the amount due as a penalty, and if the permittee fails to file the report or pay the tax within 30 days after the day the tax or report is due, the permittee shall pay an additional five percent of the amount due as an additional penalty.

(d) In addition to any other penalty authorized by this section, a permittee who fails to file a report as required by this subchapter ~~[chapter]~~ shall pay a penalty of \$50. The penalty provided by this subsection is assessed without regard to whether the permittee subsequently files the report or whether any taxes were due from the permittee for the reporting period under the required report.

SECTION 9. Section 183.053, Tax Code, is transferred to Subchapter B, Chapter 183, Tax Code, redesignated as Section 183.025, Tax Code, and amended to read as follows:

Sec. 183.025 ~~[183.053]~~. SECURITY REQUIREMENT. (a) A permittee subject to the tax imposed by this subchapter ~~[chapter]~~ must comply with the security requirements imposed by Chapter 151 except that a permittee is not required to comply with Section 151.253(b).

(b) The total of bonds, certificates of deposit, letters of credit, or other security determined to be sufficient by the comptroller of a permittee subject to the tax imposed by this subchapter ~~[chapter]~~ shall be in an amount that the comptroller determines to be sufficient to protect the fiscal interests of the state. The comptroller may not set the amount of security at less than \$1,000 or more than the greater of \$100,000 or four times the amount of the permittee's average monthly tax liability.

SECTION 10. Section 183.054, Tax Code, is transferred to Subchapter B, Chapter 183, Tax Code, redesignated as Section 183.026, Tax Code, and amended to read as follows:

Sec. 183.026 ~~[183.054]~~. AUDIT FREQUENCY. The comptroller shall have the discretion to determine the frequency of mixed beverage tax audits under this subchapter. In determining the frequency of the audit the comptroller may consider the following factors:

- (1) reasonable and prudent accounting standards;
- (2) the audit history of the permittee;
- (3) the effect on state revenues; and
- (4) other factors the comptroller deems appropriate.

SECTION 11. Section 183.055, Tax Code, is transferred to Subchapter B, Chapter 183, Tax Code, redesignated as Section 183.027, Tax Code, and amended to read as follows:

Sec. 183.027 ~~[183.055]~~. CREDITS AND REFUNDS FOR BAD DEBTS. (a) A permittee may withhold the payment of the tax under this subchapter on a portion of the gross receipts that remains unpaid by a purchaser if:

- (1) during the reporting period in which the mixed beverage is sold, the permittee determines that the unpaid portion will remain unpaid;
- (2) the permittee enters the unpaid portion of the sales gross receipts in the permittee's books as a bad debt; and

(3) the bad debt is claimed as a deduction for federal tax purposes during the same or a subsequent reporting period.

(b) If the portion of a debt determined to be bad under Subsection (a) is paid, the permittee shall report and pay the tax on the portion during the reporting period in which payment is made.

(c) A permittee is entitled to credit or reimbursement for taxes paid on the portion of the gross receipts determined to be worthless and actually charged off for federal income tax purposes.

SECTION 12. Chapter 183, Tax Code, is amended by adding Subchapter B-1 to read as follows:

**SUBCHAPTER B-1. MIXED BEVERAGE SALES TAX**

Sec. 183.041. TAX IMPOSED ON SALES OF MIXED BEVERAGES AND RELATED ITEMS. (a) A tax is imposed on each mixed beverage sold, prepared, or served by a permittee in this state and on ice and each nonalcoholic beverage sold, prepared, or served by a permittee in this state for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the permittee.

(b) The rate of the tax is 8.25 percent of the sales price of the item sold, prepared, or served.

Sec. 183.042. DISCLOSURE OF TAX. A permittee may provide that a sales invoice, billing, service check, ticket, or other receipt to a customer for the purchase of an item subject to taxation under this subchapter include:

(1) a statement that mixed beverage sales tax is included in the sales price;

(2) a separate statement of the amount of tax imposed under this subchapter on that item;

(3) a statement of the mixed beverage taxes, consisting of the combined amount of the tax to be paid by the permittee under Subchapter B in relation to that item and the amount of tax imposed under this subchapter on that item; or

(4) a statement of the combined amount of taxes imposed under this subchapter and Chapter 151 on all items listed on the invoice, billing, service check, ticket, or other receipt.

Sec. 183.043. APPLICABILITY OF OTHER LAW. (a) Except as otherwise provided by this section:

(1) the tax imposed by this subchapter is administered, collected, and enforced in the same manner as the tax under Chapter 151 is administered, collected, and enforced; and

(2) Chapter 151 applies to the tax imposed by this subchapter in the same manner as Chapter 151 applies to the tax imposed under Section 151.051.

(b) Sections 151.423 and 151.424 do not apply to the tax imposed by this subchapter.

(c) A sale to a permittee of an item described by Section 183.021 is not a sale for resale for purposes of Section 151.302 if the item is mixed with or becomes a component part of a mixed beverage subject to taxation under this subchapter that is served without any consideration paid to the permittee.

(d) An item subject to tax under this subchapter is exempt from the taxes imposed under Subtitle C, Title 3.

SECTION 13. Section 183.051, Tax Code, as effective September 1, 2013, is amended to read as follows:

Sec. 183.051. MIXED BEVERAGE TAX CLEARANCE FUND. (a) Not later than the last day of the month following a calendar quarter, the comptroller shall calculate the total amount of taxes received under Subchapters B and B-1 during the quarter from permittees outside an incorporated municipality within each county and the total amount received from permittees within each incorporated municipality in each county.

(b) The comptroller shall issue to each county described in Subsection (a) a warrant drawn on the general revenue fund in an amount appropriated by the legislature that may not be less than 10.7143 percent of the taxes received [receipts] from permittees within the county during the quarter and shall issue to each incorporated municipality described in Subsection (a) a warrant drawn on that fund in an amount appropriated by the legislature that may not be less than 10.7143 percent of the taxes received [receipts] from permittees within the incorporated municipality during the quarter.

SECTION 14. Section 183.052, Tax Code, is amended to read as follows:

Sec. 183.052. CONFLICT OF RULES. If a rule or policy adopted by the Texas Alcoholic Beverage Commission [commission] conflicts with a rule adopted by the comptroller for the application, enforcement, or collection of a [the] tax imposed by this chapter, the comptroller's rule prevails. A conflicting rule or policy adopted by the commission is invalid to the extent of the inconsistency. If the comptroller determines that a rule or policy adopted by the commission conflicts with one adopted by the comptroller relating to the application, enforcement, or collection of a [the] tax imposed by this chapter, the comptroller shall notify the commission in writing of the determination. After receipt of the notification, the commission must amend or repeal the conflicting rule or policy not later than the 90th day after the date of notification.

SECTION 15. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 16. This Act takes effect January 1, 2014.

Representative Hilderbran moved to adopt the conference committee report on **HB 3572**.

The motion to adopt the conference committee report on **HB 3572** prevailed by (Record 1285): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank;

Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Herrero; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Pickett(C).

Absent, Excused — Callegari; Sheets.

Absent — Cortez.

#### STATEMENTS OF VOTE

When Record No. 1285 was taken, my vote failed to register. I would have voted yes.

Cortez

I was shown voting yes on Record No. 1285. I intended to vote no.

Stickland

#### HR 2773 - ADOPTED (by Allen)

Representative Allen moved to suspend all necessary rules to take up and consider at this time **HR 2773**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2773**, Commending Adriana Olivia Espinoza of Victoria for her service as a legislative intern in the office of State Representative Alma Allen.

**HR 2773** was adopted.

On motion of Representative Allen, the names of all the members of the house were added to **HR 2773** as signers thereof.

#### HR 2798 - PREVIOUSLY ADOPTED (by D. Miller)

The chair laid out the following previously adopted resolution:

**HR 2798**, In memory of Thomas Lee Hultgren of New Braunfels.

On motion of Representative Parker, the names of all the members of the house were added to **HR 2798** as signers thereof.



**ADDRESS BY REPRESENTATIVE FLETCHER**

The chair recognized Representative Fletcher who addressed the house, speaking as follows:

Mr. Speaker, members, let me give you an update on my mother. I want to thank everyone so much for your prayers—prayers have been answered. She's in wonderful shape, thank you. When I met with her and the doctor at lunch today, they say that she shows—I guess the medical term is—she shows no signs of deficit. And he said that there's been three folks who have come in who are younger than her; said that they got there and had everything from paralysis to slurred speech—one of the signs is, you can't swallow. But one of the bits of advice I want to give you all as my friends and loved ones that have prayed for her, and all the folks back home, they say when you start noticing numbness, or you start slurring your speech, or you lose your—you know, you have a little equilibrium problem—you need to get in immediately; because she got the magic shot in two hours and 20 minutes, and they say that's a three-hour window; and it just changes the rest of your life. So, when I left her a while ago, they say that the blood clot has broken up, and they're going to monitor her for the next 24 hours and that she's basically fine. So, thank you all so much—prayers do work—and I really appreciate you all so much.

**REMARKS ORDERED PRINTED**

Representative Menéndez moved to print remarks by Representative Fletcher.

The motion prevailed.

**ADJOURNMENT**

Representative Muñoz moved that the house adjourn until 2 p.m. tomorrow.

The motion prevailed.

The house accordingly, at 3:18 p.m., adjourned until 2 p.m. tomorrow.

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**ADDENDUM**

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**SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

**House List No. 43**

**HB 16, HB 26, HB 38, HB 78, HB 138, HB 195, HB 294, HB 316, HB 346, HB 349, HB 503, HB 555, HB 577, HB 581, HB 628, HB 796, HB 826, HB 1035, HB 1079, HB 1123, HB 1128, HB 1129, HB 1160, HB 1435, HB 1587, HB 1692, HB 1728, HB 1741, HB 1874, HB 1875, HB 1903, HB 1908, HB 1913, HB 1960, HB 1966, HB 2028, HB 2029, HB 2055, HB 2099, HB 2110, HB 2112, HB 2117, HB 2118, HB 2135,**

**HB 2201, HB 2259, HB 2294, HB 2383, HB 2532, HB 2615, HB 2694, HB 2733, HB 3063, HB 3067, HB 3096, HB 3159, HB 3259, HB 3914, HCR 205, HCR 206, HCR 207**

**Senate List No. 33**

**SB 31, SB 34, SB 45, SB 49, SB 62, SB 112, SB 119, SB 122, SB 127, SB 138, SB 147, SB 171, SB 198, SB 232, SB 242, SB 273, SB 279, SB 284, SB 355, SB 381, SB 389, SB 391, SB 427, SB 462, SB 464, SB 474, SB 504, SB 515, SB 516, SB 517, SB 518, SB 533, SB 540, SB 542, SB 545, SB 551, SB 564, SB 583, SB 608, SB 609, SB 623, SB 631, SB 632, SB 639, SB 658, SB 660, SB 673, SB 677, SB 679, SB 699, SB 702, SB 734, SB 742, SB 746, SB 747, SB 758, SB 804, SB 816, SB 817, SB 818, SB 833, SB 836, SB 856, SB 863, SB 875, SB 877, SB 895, SB 904, SB 978, SB 981, SB 1033, SB 1057, SB 1061, SB 1064, SB 1065, SB 1067, SB 1068, SB 1069, SB 1095, SB 1114, SB 1151, SB 1185, SB 1189, SB 1235, SB 1238, SB 1241, SB 1251, SB 1282, SB 1299, SB 1364, SB 1372, SB 1401, SB 1422, SB 1425, SB 1432, SB 1461, SB 1473, SB 1474, SB 1479, SB 1480, SB 1510, SB 1531, SB 1548, SB 1584, SB 1708, SB 1756, SB 1757, SB 1820, SB 1823, SB 1828, SB 1831, SB 1836, SB 1845, SB 1847, SB 1852, SB 1854, SB 1855, SB 1869, SB 1870, SB 1872, SB 1878, SB 1884, SB 1893, SB 1900, SB 1902, SCR 10, SCR 13**

**Senate List No. 39**

**SB 691, SB 1901**

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**APPENDIX**

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**ENROLLED**

**May 24 - HB 8, HB 16, HB 26, HB 38, HB 78, HB 138, HB 148, HB 195, HB 294, HB 316, HB 346, HB 349, HB 438, HB 462, HB 503, HB 528, HB 555, HB 577, HB 581, HB 590, HB 628, HB 633, HB 647, HB 694, HB 696, HB 714, HB 746, HB 796, HB 807, HB 826, HB 833, HB 847, HB 869, HB 916, HB 939, HB 983, HB 984, HB 1020, HB 1035, HB 1044, HB 1079, HB 1120, HB 1123, HB 1128, HB 1129, HB 1160, HB 1174, HB 1185, HB 1260, HB 1284, HB 1330, HB 1354, HB 1355, HB 1376, HB 1382, HB 1384, HB 1392, HB 1435, HB 1487, HB 1501, HB 1513, HB 1523, HB 1544, HB 1562, HB 1573, HB 1586, HB 1587, HB 1588, HB 1597, HB 1662, HB 1692, HB 1728, HB 1741, HB 1781, HB 1813, HB 1824, HB 1862, HB 1874, HB 1875, HB 1903, HB 1908, HB 1913, HB 1960, HB 1966, HB 2029, HB 2036, HB 2055, HB 2075, HB 2090, HB 2099, HB 2100, HB 2110, HB 2112, HB 2117, HB 2118, HB 2123, HB 2135, HB 2148, HB 2153, HB 2163, HB 2197, HB 2201, HB 2202, HB 2259, HB 2267, HB 2294, HB 2318, HB 2362, HB 2373, HB 2383, HB 2407, HB 2448, HB 2451, HB 2460, HB 2483, HB 2485, HB 2532, HB 2539, HB 2615, HB 2668, HB 2676, HB 2679, HB 2704, HB 2718,**

**HB 2719, HB 2767, HB 2824, HB 2902, HB 2907, HB 2924, HB 2975, HB 2984, HB 3005, HB 3038, HB 3066, HB 3067, HB 3070, HB 3085, HB 3096, HB 3121, HB 3125, HB 3159, HB 3196, HB 3241, HB 3259, HB 3296, HB 3350, HB 3370, HB 3401, HB 3460, HB 3483, HB 3536, HB 3573, HB 3604, HB 3613, HB 3640, HB 3659, HB 3662, HB 3674, HB 3677, HB 3714, HB 3739, HB 3764, HB 3787, HB 3792, HB 3798, HB 3813, HB 3831, HB 3838, HB 3874, HB 3875, HB 3877, HB 3895, HB 3910, HB 3913, HB 3914, HB 3932, HB 3933, HB 3934, HB 3943, HB 3946, HB 3947, HCR 82, HCR 89, HCR 111, HCR 115, HCR 205, HCR 206, HCR 207, HJR 24**

**SIGNED BY THE GOVERNOR**

**May 24 - HB 13, HB 487, HB 597, HB 1164, HB 1186, HB 1271, HB 1325, HB 1422, HB 1493, HB 1521, HB 1685, HB 1994, HB 2623**

**FILED WITHOUT THE GOVERNOR'S SIGNATURE**

**May 24 - HB 1642**

